

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 23, 24, 26, 29, 30, 41, 42, 46, 47, and 50 will be pending in the present application. Claims 43, 44, and 49 have been cancelled by this amendment, and claims 1-22, 25, 27, 28, 31-40, 45 were cancelled in a prior amendment.

Applicant notes with appreciation the Examiner's indication that claims 23, 24, 26, and 50 are allowed, and that claims 29, 30, 41, 42, and 46 would be allowed if rewritten to correct the rejections of the claims under Rule 112, second paragraph. Claims 29, 41, 42, and 46 have been amended to correct the issues noted by the Examiner, and, therefore, are believed to be in condition for allowance. Claim 47 has been amended to depend from claim 46.

Claims 29, 30, 41, 42, 44, 46, and 47 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully submits that the above amendment to the claims correct the specific deficiencies cited by the Examiner. Claim 44 as been cancelled. Accordingly, applicant respectfully requests that the above rejection of claim 29, 30, 41, 42, 44, 46, and 47 be withdrawn.

Claim 43 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,890,490 to Alysworth et al. ("the '490 patent"). Applicant respectfully submits that this rejection has been rendered moot due to the cancellation of claim 43 from the present application. Please note that in canceling claim 43 from the present application, the applicant does not acquiesce with the Examiner's conclusions as to the patentability of the cancelled claims. On the contrary, the applicant reserves the right to pursue the cancelled claims, or claims of similar scope via a Continuation application. Applicant respectfully requests that the above rejection of claim 43 be withdrawn.

Claim 48 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,560,353 to Willemot et al. ("the '353 patent"). Applicant respectfully submits that this rejection has been rendered moot due to the cancellation of claim 48 from the present

application. Please note that in canceling claim 43 from the present application, the applicant does not acquiesce with the Examiner's conclusions as to the patentability of the cancelled claims. On the contrary, the applicant reserves the right to pursue the cancelled claims, or claims of similar scope via a Continuation application. Applicant respectfully requests that the above rejection of claim 48 be withdrawn.

Claims 44, 47, and 49 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '353 patent in view of the disclosure in the present application. Applicant respectfully submits that this rejection has been rendered moot due to the cancellation of claims 44 and 49 from the present application. Claim 47 has been amended to depend from claim 46.

Please note that in canceling claims 44 and 49 from the present application, the applicant does not acquiesce with the Examiner's conclusions as to the patentability of the cancelled claims. On the contrary, the applicant reserves the right to pursue the cancelled claims, or claims of similar scope via a Continuation application. Accordingly, Applicant respectfully requests that the above rejection of claims 44, 47, and 49 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By Michael W. Haas

Michael W. Haas

Reg. No.: 35,174

Tel. No.: (724) 387-5026

Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525